

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ROBERT LEON BEANE, JR.,

Defendant-Appellee.

UNPUBLISHED

May 24, 2007

No. 268340

Lake Circuit Court

LC No. 05-004351-FC

Before: White, P.J., and Saad and Murray, JJ.

WHITE, P.J. (*dissenting*).

I respectfully dissent. This prosecutorial appeal centers on a police interview that was videotaped and reviewed by the circuit court, yet the prosecution failed to ensure that either a transcript of that videotape or the videotape itself was provided to this Court, in violation of MCR 7.210. Defendant's appellate brief assumes, properly, that the tape or transcript will be reviewed by this panel.

With that said, I find no error in the circuit court's implicit finding that defendant's request for counsel was unequivocal, *Edwards v Arizona*, 451 US 477, 484-485; 101 S Ct 1880; 68 L Ed 2d 378 (1981), and that the police, not defendant, improperly initiated further dialogue after defendant's request for counsel, *Davis v US*, 512 US 452, 458; 114 S Ct 2350; 129 L Ed 2d 362 (1994). I would affirm.

/s/ Helene N. White